PROTECTION OF CHILDREN RIDING IN MOTOR VEHICLES

2013 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Aaron Osmond

LONG TITLE
Committee Note:
The Health and Human Services Interim Committee recommended this bill.

General Description:
This bill modifies the Motor Vehicles Code by enacting a restriction on smoking in a motor vehicle when a child is present.

Highlighted Provisions:
This bill:
- defines smoking;
- prohibits a person from smoking in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle except in certain circumstances;
- provides that violating the smoking prohibition is an infraction and has a maximum fine of $45;
- provides that until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning informing the individual that smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle;
- provides that a court may suspend the fine for a violation if the person has not previously been convicted of smoking in a vehicle when a child is present and proves that the person has enrolled in a smoking cessation program;
provides that enforcement of the smoking prohibition shall be only as a secondary action; and
provides that a violation of the smoking prohibition may not be used as a basis for or evidence of child abuse or neglect.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

ENACTS:

41-6a-1717, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1717 is enacted to read:

41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty -- Enforcement.

(1) As used in this section, "smoking" has the same meaning as defined in Section 26-38-2.

(2) Smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(b) A person may smoke in a motor vehicle while a child who is 15 years of age or younger is a passenger in the vehicle if the person:

(i) is operating a convertible or open-body type motor vehicle; and

(ii) the roof on the convertible or open-body type motor vehicle is in the open-air mode.

(3) A person who violates this section is guilty of an infraction and is subject to a maximum fine of $45.

(4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning informing the individual that smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(5) The court may suspend the fine for a violation of this section if:

(a) the person has not previously been convicted of a violation of this section; and

(b) the person proves to the court that the person has enrolled in a smoking cessation program.

(6) Enforcement of this section by a state or local law enforcement officer shall be only
as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense. (7) A violation of this section may not be used as a basis for or evidence of child abuse or neglect.

Legislative Review Note
as of  9-26-12  3:13 PM
Office of Legislative Research and General Counsel